

# Freedom through Online Education. Are We Safe Online?

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## Abstract

The article shed light on a problem of freedom of expression through Online Education. Nowadays, the intermediaries such as Facebook, Google, Twitter, etc. play crucial role in educating people. Their policies in addition to the governmental regulations could seriously affect the human rights. The extraterritoriality and non-state actor status of transnational companies are also problems when considering violation of human rights as legally transnational corporations cannot violate rights as non-state actors and have no obligation towards people. In addition, fake news and trolley factories became a true problem that claimed to be able to affect even elections. Moreover, they could affect the right to know and receive information which constitutes a part of the general right to freedom of expression. However, as recent examples show, social media platforms knowingly keep fake information despite the public announcement of human rights commitments. In addition, while claiming the dedication to the human rights protection, business still more interested in profit.

**Keywords:** freedom of expression, regulation, risk assessment, due diligence, privacy, Facebook, twitter, Vkontakte, human rights

## 1. Introduction

Today's world is full of various information of different kind. While in a past people were striving for information, now they are overwhelmed by it, so it is highly difficult to discriminate what is the legitimate information and what is disinformation or modified information. The current state of mind is often been called a censorship with noise, meaning that the truth or opinions can be lost in gigabytes of data (Baroughi& ZAREI, 2013).

One of the unique features of the Internet is that information largely depends on intermediaries, or private corporations which provide services and platforms. Telecommunication companies, Facebook, Twitter, Google are now playing a crucial role on sharpening the freedom of expression and privacy framework. Platforms and companies often involve not as direct perpetrators but rather than intermediaries by virtue of their gatekeeping function they are in a position to regulate it. The most common example is content regulation. Therefore, currently, the exercise of freedom of expression (Lee, 2002; Mussabekov et al, 2018). by a person depends on a governmental policies and laws regarding the Internet and human rights and the policies of social media platforms that often been detected in manipulating or affecting the exercise of freedom of expression. Undoubtedly, governments and intermediaries often cooperate; private companies have to comply with the jurisdictional laws consists of law of a place of registration and laws of a place of the platform.

## 2. Methods

The research question explores how an individual's freedom of expression and right to privacy affected online and how violations can be improved? The article is looking at the existing state of human rights online. Therefore, it is important to look at the current legislation and jurisprudence of national, regional and international judicial bodies. The research question could technically be answered based on the analysis of the case-law alone, however, the academic literature provides relevant background information and introduces the existent perspectives on the issue. The newspaper and magazine articles were also considered as a source of the CEOs' and representatives of social media statement. In order to discriminate between reliable and non-reliable information, the prominent media outlets were picked, e.g. the Guardian, New York Times, etc. Gulati, S. (2004.)

### 3. Results and Discussion

Social media and searching engines' impact are so great that the UN pointed that Facebook had been a major platform for spreading hatred against the Rohingya in Myanmar which in turn led to ethnic cleansing and crimes against humanity. Therefore, frequently questions arise whether Facebook can be a complicit in genocide Li, Q., & Akins, M. (2005). Twitter deleted an account of Wael Abbas, an Egyptian human rights activist and journalist. His account with more than 350,000 followers documented evidence of torture, killings or missing (Lee, L. (2002). Social media such as Instagram and Twitter have been also criticized for not verify accounts of human rights activists and bloggers or civil society organization. Twitter states that in order to be verified an account shall be of public interest. Therefore, send a message that human rights are not necessarily of public interests.

Facebook is widely known for being a platform where the truth is often manipulated by the fake news. Fake news are not a tool of disinformation and influence to the politics. The UN, OSCE and other expert states that fake news interfered with the right to know and receive information which constitutes a part of the general right to freedom of expression Li, Q., & Akins, M. (2005).

Stressing that the human right to impart information and ideas is not limited to "correct" statements, that the right also protects information and ideas that may shock, offend and disturb, and that prohibitions on disinformation may violate international human rights standards, while, at the same time, this does not justify the dissemination of knowingly or recklessly false statements by official or State actors Lee, L. (2002).

One of the most obvious solution is to create a universal treaty that would contain a provision about the liability for human rights violation including the extraterritorial violations. However, there is a little chance that it will be a case.

The responsibility of transnational corporations (hereinafter – TNC) (that includes Google, Amazon, Facebook, etc.) has been a subject of a debate for a considerable time Lee, L. (2002). While before the human rights topic arose in the context of labour law regulations extraterritorially (use of child labour, the inhuman and degrading treatment, etc.), currently, the right to privacy and freedom of expression became a cornerstone of a debate Langley, M. E., & Brown, S. T. (2010).

"Corporate impunity is the theme of our days" Lee, L. (2002). It frequently appears that TNCs are the independent entities that cannot be controlled either by the home or host states Li, Q., & Akins, M. (2005). Such situations lead to the grave human rights violations and abuses Langley, M. E., & Brown, S. T. (2010).. In Geneva, on July 26, 2014, the HRC has adopted a resolution on the establishment of the Intergovernmental Working Group on developing the international binding treaty. This decision was highly praised by the number of States that have experienced the human rights abuses in the past. The cases of Chevron in Ecuador, Coca-Cola in Colombia, Shell in Nigeria, Glencore-Xstrata in the Philippines, and Oceana Gold in El Salvador, among others, have been presented to illustrate the need for a binding treaty on Business and Human Rights (hereinafter – BHR). Kenny, A. (2002).

Therefore, a lot of countries (a Treaty Alliance) demand to develop tools that would lead to justice and elimination of the impunity. Extraterritoriality is frequently presented as a tool that would allow the challenges in the field of BHR be addressed Langley, M. E., & Brown, S. T. (2010).

The recognition that an access to effective remedies needs to be developed was raised by the Human Rights Council, when establishing the IGWG, requesting the Working Group "to explore options and make recommendations... for enhancing access to effective remedies" Li, Q., & Akins, M. (2005). The International Commission of Jurists held that "the acutest challenges and needs in the area of business and human rights relate to the deficits both in ensuring the accountability of companies and in access to effective remedies for victims of abuse" (Kenny, 2002; Leana-Tascilar, 2014).

Extraterritoriality is the biggest issue when discussing the human rights enjoyment Kenny, A. (2002).. An elaborated definition could be found in the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights (hereinafter – Maastricht Principles). Principle 8 held that EO encompass the obligations relating to "the acts and omissions of a State, within or beyond its territory, that have effects on the enjoyment of human rights outside of that State's territory" Lee, L. (2002).

There are some "soft law" exists that regulate the actions of TNCs in regard to human rights. The UN Guiding Principles (hereinafter- GP) recognize, inter alia, the need of business enterprises to comply with all applicable laws and to respect human rights and have an effective remedy. The UN GP despite being a soft law has received high reviews and been endorsed by the UN Li, Q., & Akins, M. (2005). and used a model for CSR codes.

One of the cornerstones of any CSR responsibility is risk assessment Kenny, A. (2002).. Risk assessment (hereinafter – RA) or due diligence is the basis for any TCN to stay more sustainable. Facebook joined a Global Network Initiative and released a RA in Myanmar. For RA it is important to distinguish whether there is a physical presence of a company in the area. The physical presence may constitute an office, staff, data storage centre, etc. However, even if a company is not present in a state, the citizen of it still can be using the platform and therefore, risks exist. While performing risk assessment different factors are considered: the general profile of a country (territory, the government in power, important historical events), the distribution and availability of the Internet in the area, the relevant legal framework. The legal framework is of paramount importance as a TNC shall comply with the laws and therefore it can directly affect the performance of the company in a state. In a case of Myanmar, Business for a Better World that was commissioned to conduct an assessment made a conclusion that the legal framework in Myanmar does not allow for the full realization of freedom of expression and therefore the lack of rule of law increase human rights risks for Facebook Lee, L. (2002).. There are several scope of rights that could be potentially affected by any social media but Facebook in particular: security (hate speech, misinformation, harassment, incitement of violence), freedom of expression, assembly and association, privacy, non-discrimination, child rights (inappropriate content and sexual abuses material), standard of living and access to culture Gulati, S. (2004). In order to comply with the human rights, Facebook was recommended to develop a risk mitigation plan for a particular country. One of the examples given is mitigation of risks during the elections period. These steps seem to be a good response in a case of human rights violations but either government or persons. Unfortunately, human rights risk assessment was published only for Myanmar as a response to the mentioning Facebook in the UN Resolution.

Another interesting example is a data storage centers. Mark Zuckerberg made a statement that Facebook will not to build data centers in countries that have a track record of violating human rights like privacy or freedom of expression Li, Q., & Akins, M. (2005). However, he and the company have been criticized for the storage of data in Singapore that does not have a positive human rights protection record. In this regard often, the discussion arises what is more important for business: profit or human rights.

One important thing to keep in mind that often intermediaries are just a tool used to prosecute people for sharing information that brings a new dimension to the human rights violations Gulati, S. (2004). There are cases in Russia when people have been convicted for merely sharing information in the VKontakte and Facebook Kenny, A. (2002). The UN in Joint Statement raised that issue as well by saying: “consideration should be given to protecting individuals against liability for merely redistributing or promoting, through intermediaries, content of which they are not the author and which they have not modified” Lee, L. (2002).

#### **4. Summary**

As we can witness, a user is stacked between the legal frameworks of a country (or countries) and the companies’ norms. Frequently, the business strategy is not compatible with the general human rights protection as social media is a business tool mainly and as any TNC, they should have an effective CSR policy. Those policies being very detailed and well written, often are not that effective in the practice as a lot of cases show. Therefore, when it comes to the freedom of expression, privacy and related rights, a person shall try to understand the legal frameworks and practice to be able to enjoy the freedoms and rights.

#### **5. Conclusion**

Human rights have been violated in all spheres of life. Being online extensively leads to the risks of violations in the Internet. Social media, e. g Facebook, Twitter while being a powerful tool in democratization, often used in order to limit the freedom of expression or privacy. A user put in unfavorable position: a government impose restrictions on context and rules of information dissemination and TNCs interested in developing business. Despite the fact that TNC are more interested now in conducting a sustainable business, there is still cases of human rights violation. Undoubtedly, TNCs cannot violate human rights per se as they do not have obligations under any of the treaty due to the non-state actor status, therefore a debate has been cared of whether a human rights treaty shall exist to bind TNCs to comply with human rights. The topic being debatable collected a lot of supporters, and TNCs are not openly oppose the treaty and cared risk assessments and due diligence.

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